

State of Illinois 91st General Assembly Final Senate Journal

SENATE JOURNAL

STATE OF ILLINOIS

NINETY-FIRST GENERAL ASSEMBLY

99TH LEGISLATIVE DAY

TUESDAY, APRIL 11, 2000

9:00 O'CLOCK A.M.

No. 99

[Apr. 11, 2000]

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The Senate met pursuant to adjournment.
Honorable James "Pate" Philip, Wood Dale, Illinois, presiding.
Prayer by Reverend Warren Wilkewitz, Third Presbyterian Church,
Springfield, Illinois.
Senator Radogno led the Senate in the Pledge of Allegiance.

The Journal of Thursday, April 6, 2000, was being read when on motion of Senator Myers further reading of same was dispensed with and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

Senator Myers moved that reading and approval of the Journals of Friday, April 7, 2000 and Monday, April 10, 2000 be postponed pending arrival of the printed Journals.

The motion prevailed.

MESSAGE FROM THE PRESIDENT

OFFICE OF THE SENATE PRESIDENT
ILLINOIS SENATE

James "Pate" Philip
Senate President
and
Majority Leader

April 11, 2000

Mr. Jim Harry
Secretary of the Senate
401 State House
Springfield, IL 62706

Dear Mr. Secretary:

Please be advised that I have replaced Senator Maitland with Senator Dillard on the Senate Rules Committee effective immediately.

Sincerely,

s/Pate
James "Pate" Philip
President of the Senate

cc: Senator Cullerton
Senator Demuzio
Senator Dillard
Senator Dudycz
Senator Weaver
Maitland

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

A message from the House by
Mr. Rossi, Clerk:

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Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 807
A bill for AN ACT concerning health facility planning.

Together with the following amendments which are attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 807

House Amendment No. 2 to SENATE BILL NO. 807

House Amendment No. 9 to SENATE BILL NO. 807

Passed the House, as amended, April 10, 2000.

ANTHONY D. ROSSI, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 807

AMENDMENT NO. 1. Amend Senate Bill 807 on page 4, line 30, after "4.1,", by inserting "4.2,"; and on page 18, immediately below line 11, by inserting the following:

"(20 ILCS 3960/4.2 new)

Sec. 4.2. Ex parte communications. Notwithstanding any law to the contrary, the provisions of Section 10-60 of the Illinois Administrative Procedure Act, as modified by this Section, apply to State Board proceedings. The provisions of Section 10-60 of the Illinois Administrative Procedure Act do not apply, however, to communications between State Board employees who are engaged in investigatory, prosecutorial, or advocacy functions and other parties to the proceeding, provided that those State Board employees are still prohibited from communicating on an ex parte basis, as designated in Section 10-60 of the Illinois Administrative Procedure Act, directly or indirectly, with members of the State Board, any hearing examiner in the proceeding, or any State Board employee who is or may reasonably be expected to be involved in the decisional process of the proceeding.

Any State Board member, hearing examiner, or other State Board employee who is or may reasonably be expected to be involved in the decisional process of a proceeding who receives, or who makes or knowingly causes to be made, a communication prohibited by Section 10-60 of the Illinois Administrative Procedure Act, as modified by this Section, must place on the public record of the proceeding (i) all such written communications, (ii) memoranda stating the substance of all such oral communications, and (iii) all written responses and memoranda stating the substance of all oral responses to the materials described in items (i) and (ii).

The State Board, or any State Board member or hearing examiner presiding over the proceeding, in the event of a violation of this Section, must take whatever action is necessary to ensure that the violation does not prejudice any party of adversely affect the fairness of the proceedings."

AMENDMENT NO. 2 TO SENATE BILL 807

AMENDMENT NO. 2. Amend Senate Bill 807 on page 18, line 10, immediately after "Act.", by inserting the following:

"Whenever the State Board, pursuant to the Open Meetings Act, closes any meeting, or portion of any meeting, it shall arrange for all discussions, deliberations, and meetings so closed to be transcribed verbatim by a stenographer, certified court reporter, or similar means. The State Board must review and approve the transcripts

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within 30 days after the date of the closed meeting, and when, in its judgment, the exception of the Open Meetings Act relied upon for authorizing the closing of the meeting, as recorded pursuant to Section 2a of the Open Meetings Act, is no longer applicable, the transcripts must be made available to the public. Any party to a State Board proceeding must be given access to the transcript of any closed meeting pertaining to that proceeding before the expiration of the time within which his or her application for rehearing must be filed, upon the signing of an appropriate protective agreement."

AMENDMENT NO. 9 TO SENATE BILL 807

AMENDMENT NO. 9. Amend Senate Bill 807, AS AMENDED, by replacing the title with the following:

"AN ACT in relation to health facilities."; and

by replacing everything after the enacting clause with the following:

"Section 5. The Open Meetings Act is amended by changing Section 1.02 as follows:

(5 ILCS 120/1.02) (from Ch. 102, par. 41.02)

Sec. 1.02. For the purposes of this Act:

"Meeting" means any gathering of a majority of a quorum of the ~~members commissioners~~ of a public body held for the purpose of discussing public business.

"Public body" includes all legislative, executive, administrative or advisory bodies of the State, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, and any subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees which are supported in whole or in part by tax revenue, or which expend tax revenue, except the General Assembly and committees or commissions thereof. "Public body" includes tourism boards and convention or civic center boards located in counties that are contiguous to the Mississippi River with populations of more than 250,000 but less than 300,000. "Public body" includes the Health Facilities Planning Board. "Public body" does not include a child death review team established under the Child Death Review Team Act or an ethics commission, ethics officer, or ultimate jurisdictional authority acting under the State Gift Ban Act as provided by Section 80 of that Act.

(Source: P.A. 90-517, eff. 8-22-97; 90-737, eff. 1-1-99; revised 11-8-99.)

Section 10. The State Gift Ban Act is amended by changing Section 5 as follows:

(5 ILCS 425/5)

Sec. 5. Definitions. As used in this Act:

"Commission" means an ethics commission created by this Act.

"Employee" means all full-time, part-time, and contractual employees, appointed and elected officials, and directors of a governmental entity.

"Gift" means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of an employee,

member, officer, or judge.

"Governmental entity" means each office, board, commission, agency, department, authority, institution, university, body politic and corporate, administrative unit, and corporate outgrowth of the executive, legislative, and judicial branches of State government, whether created by the Illinois Constitution, by or in accordance

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with statute, or by executive order of the Governor. "Governmental entity" includes the Health Facilities Planning Board.

"Judge" means judges and associate judges of the Supreme Court, Appellate Courts, and Circuit Courts.

"Member" means a member of the General Assembly.

"Officer" means a State constitutional officer.

"Political organization" means a party, committee, association, fund, or other organization (whether or not incorporated) organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for the function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any federal, state, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors, whether or not the individual or electors are selected, nominated, elected, or appointed. The term includes the making of expenditures relating to an office described in the preceding sentence that, if incurred by the individual, would be allowable as a federal income tax deduction for trade or business expenses.

"Prohibited source" means any person or entity who:

(1) is seeking official action (i) by the member, officer, or judge or (ii) in the case of an employee, by the employee or by the member, officer, judge, governmental entity, or other employee directing the employee;

(2) does business or seeks to do business (i) with the member, officer, or judge or (ii) in the case of an employee, with the employee or with the member, officer, judge, governmental entity, or other employee directing the employee;

(3) conducts activities regulated (i) by the member, officer, or judge or (ii) in the case of an employee, by the employee or by the member, officer, judge, governmental entity, or other employee directing the employee;

(4) has interests that may be substantially affected by the performance or non-performance of the official duties of the member, officer, employee, or judge; or

(5) is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act.

"Ultimate jurisdictional authority" means the following:

(1) For members, partisan staff, and their secretaries, the appropriate legislative leader: President of the Senate, Minority Leader of the Senate, Speaker of the House of Representatives, or Minority Leader of the House of Representatives.

(2) For State employees who are professional staff or employees of the Senate and not covered under item (1), the Senate Operations Commission.

(3) For State employees who are professional staff or employees of the House of Representatives and not covered under item (1), the Speaker of the House of Representatives.

(4) For State employees who are employees of the legislative support services agencies, the Joint Committee on Legislative Support Services.

(5) For judges, the Chief Justice of the Supreme Court.

(6) For State employees of the judicial branch, the Administrative Office of the Illinois Courts.

(7) For State employees of an executive branch constitutional officer, the appropriate executive branch constitutional officer.

(8) For State employees not under the jurisdiction of paragraph (1), (2), (3), (4), (5), (6), or (7), the Governor.

(9) For officers, the General Assembly.

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(Source: P.A. 90-737, eff. 1-1-99.)

Section 15. The Illinois Health Facilities Planning Act is amended by changing Sections 3, 4, and 5 and by adding Sections 4.1, 4.2, 5.2, 5.3, 19.5, and 19.6 as follows:

(20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

(Text of Section before amendment by P.A. 91-656)

Sec. 3. As used in this Act:

"Health care facilities" means and includes the following facilities and organizations:

1. An ambulatory surgical treatment center required to be licensed pursuant to the Ambulatory Surgical Treatment Center Act;

2. An institution, place, building, or agency required to be licensed pursuant to the Hospital Licensing Act;

3. Any institution required to be licensed pursuant to the Nursing Home Care Act;

4. Hospitals, nursing homes, ambulatory surgical treatment centers, or kidney disease treatment centers maintained by the State or any department or agency thereof; ~~and~~

5. Kidney disease treatment centers, including a free-standing hemodialysis unit; ~~and-~~

6. An institution, place, building, or room used for the performance of outpatient surgical procedures that is leased, owned, or operated by or on behalf of an out-of-state facility.

No federally owned facility shall be subject to the provisions of this Act, nor facilities used solely for healing by prayer or spiritual means.

No facility licensed under the Supportive Residences Licensing Act shall be subject to the provisions of this Act.

A facility designated as a supportive living facility that is in good standing with the demonstration project established under Section 5-5.01a of the Illinois Public Aid Code shall not be subject to the provisions of this Act.

This Act does not apply to facilities granted waivers under Section 3-102.2 of the Nursing Home Care Act. However, if a demonstration project under that Act applies for a certificate of

need to convert to a nursing facility, it shall meet the licensure and certificate of need requirements in effect as of the date of application.

With the exception of those health care facilities specifically included in this Section, nothing in this Act shall be intended to include facilities operated as a part of the practice of a physician or other licensed health care professional, whether practicing in his individual capacity or within the legal structure of any partnership, medical or professional corporation, or unincorporated medical or professional group. Further, this Act shall not apply to physicians or other licensed health care professional's practices where such practices are carried out in a portion of a health care facility under contract with such health care facility by a physician or by other licensed health care professionals, whether practicing in his individual capacity or within the legal structure of any partnership, medical or professional corporation, or unincorporated medical or professional groups. This Act shall apply to construction or modification and to establishment by such health care facility of such contracted portion which is subject to facility licensing requirements, irrespective of the party responsible for such action or attendant financial obligation.

"Person" means any one or more natural persons, legal entities, governmental bodies other than federal, or any combination thereof.

"Consumer" means any person other than a person (a) whose major

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occupation currently involves or whose official capacity within the last 12 months has involved the providing, administering or financing of any type of health care facility, (b) who is engaged in health research or the teaching of health, (c) who has a material financial interest in any activity which involves the providing, administering or financing of any type of health care facility, or (d) who is or ever has been a member of the immediate family of the person defined by (a), (b), or (c).

"State Board" means the Health Facilities Planning Board.

"Construction or modification" means the establishment, erection, building, alteration, reconstruction, modernization, improvement, extension, discontinuation, change of ownership, of or by a health care facility, or the purchase or acquisition by or through a health care facility of equipment or service for diagnostic or therapeutic purposes or for facility administration or operation, or any capital expenditure made by or on behalf of a health care facility which exceeds the capital expenditure minimum; however, any capital expenditure made by or on behalf of a health care facility for the construction or modification of a facility licensed under the Assisted Living and Shared Housing Act shall be excluded from any obligations under this Act.

"Establish" means the construction of a health care facility or the replacement of an existing facility on another site.

"Major medical equipment" means medical equipment which is used for the provision of medical and other health services and which costs in excess of the capital expenditure minimum, except that such term does not include medical equipment acquired by or on behalf of a

clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under Title XVIII of the Social Security Act to meet the requirements of paragraphs (10) and (11) of Section 1861(s) of such Act. In determining whether medical equipment has a value in excess of the capital expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of such equipment shall be included.

"Capital Expenditure" means an expenditure: (A) made by or on behalf of a health care facility (as such a facility is defined in this Act); and (B) which under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance, or is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part; and which exceeds the capital expenditure minimum.

For the purpose of this paragraph, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which an expenditure is made shall be included in determining if such expenditure exceeds the capital expenditures minimum. Donations of equipment or facilities to a health care facility which if acquired directly by such facility would be subject to review under this Act shall be considered capital expenditures, and a transfer of equipment or facilities for less than fair market value shall be considered a capital expenditure for purposes of this Act if a transfer of the equipment or facilities at fair market value would be subject to review.

"Capital expenditure minimum" means \$6,000,000, which shall be annually adjusted to reflect the increase in construction costs due to inflation, \$1,000,000 for major medical equipment and \$2,000,000 for all other capital expenditures; provided, however, that when a

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capital expenditure is for the construction or modification of a health and fitness center, "capital expenditure minimum" means the capital expenditure minimum for all other capital expenditures in effect on March 1, 2000, which shall be annually adjusted to reflect the increase in construction costs due to inflation, both of which shall be annually adjusted to reflect the increase in construction costs due to inflation.

"Non-clinical service area" means an area (i) for the benefit of the patients, visitors, staff, or employees of a health care facility and (ii) not directly related to the diagnosis, treatment, or rehabilitation of persons receiving services from the health care facility. "Non-clinical service areas" include, but are not limited to, chapels; gift shops; news stands; computer systems; tunnels, walkways, and elevators; telephone systems; projects to comply with life safety codes; educational facilities; student housing; patient, employee, staff, and visitor dining areas; administration and volunteer offices; modernization of structural components (such as roof replacement and masonry work); boiler repair or replacement;

vehicle maintenance and storage facilities; parking facilities; mechanical systems for heating, ventilation, and air conditioning; loading docks; and repair or replacement of carpeting, tile, wall coverings, window coverings or treatments, or furniture. Solely for the purpose of this definition, "non-clinical service area" does not include health and fitness centers.

"Areawide" means a major area of the State delineated on a geographic, demographic, and functional basis for health planning and for health service and having within it one or more local areas for health planning and health service. The term "region", as contrasted with the term "subregion", and the word "area" may be used synonymously with the term "areawide".

"Local" means a subarea of a delineated major area that on a geographic, demographic, and functional basis may be considered to be part of such major area. The term "subregion" may be used synonymously with the term "local".

"Areawide health planning organization" or "Comprehensive health planning organization" means the health systems agency designated by the Secretary, Department of Health and Human Services or any successor agency.

"Local health planning organization" means those local health planning organizations that are designated as such by the areawide health planning organization of the appropriate area.

"Physician" means a person licensed to practice in accordance with the Medical Practice Act of 1987, as amended.

"Licensed health care professional" means a person licensed to practice a health profession under pertinent licensing statutes of the State of Illinois.

"Director" means the Director of the Illinois Department of Public Health.

"Agency" means the Illinois Department of Public Health.

"Comprehensive health planning" means health planning concerned with the total population and all health and associated problems that affect the well-being of people and that encompasses health services, health manpower, and health facilities; and the coordination among these and with those social, economic, and environmental factors that affect health.

"Alternative health care model" means a facility or program authorized under the Alternative Health Care Delivery Act.

"Out-of-state facility" means a person that is both (i) licensed as a hospital or as an ambulatory surgery center under the laws of another State or that qualifies as a hospital or an ambulatory

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surgery center under regulations adopted pursuant to the Social Security Act and (ii) not licensed under the Ambulatory Surgical Treatment Center Act, the Hospital Licensing Act, or the Nursing Home Care Act. Affiliates of out-of-state facilities shall be considered out-of-state facilities. Affiliates of Illinois licensed health care facilities 100% owned by an Illinois licensed health care facility, its parent, or Illinois physicians licensed to practice medicine in all its branches shall not be considered out-of-state facilities. Nothing in this definition shall be construed to include an office or

any part of an office of a physician licensed to practice medicine in all its branches in Illinois that is not required to be licensed under the Ambulatory Surgical Treatment Center Act.

(Source: P.A. 89-499, eff. 6-28-96; 89-530, eff. 7-19-96; 90-14, eff. 7-1-97.)

(Text of Section after amendment by P.A. 91-656)

Sec. 3. As used in this Act:

"Health care facilities" means and includes the following facilities and organizations:

1. An ambulatory surgical treatment center required to be licensed pursuant to the Ambulatory Surgical Treatment Center Act;

2. An institution, place, building, or agency required to be licensed pursuant to the Hospital Licensing Act;

3. Skilled and intermediate long term care facilities licensed under the Nursing Home Care Act;

3. Skilled and intermediate long term care facilities licensed under the Nursing Home Care Act;

4. Hospitals, nursing homes, ambulatory surgical treatment centers, or kidney disease treatment centers maintained by the State or any department or agency thereof; ~~and~~

5. Kidney disease treatment centers, including a free-standing hemodialysis unit; ~~and-~~

6. An institution, place, building, or room used for the performance of outpatient surgical procedures that is leased, owned, or operated by or on behalf of an out-of-state facility.

No federally owned facility shall be subject to the provisions of this Act, nor facilities used solely for healing by prayer or spiritual means.

No facility licensed under the Supportive Residences Licensing Act or the Assisted Living and Shared Housing Act shall be subject to the provisions of this Act.

A facility designated as a supportive living facility that is in good standing with the demonstration project established under Section 5-5.01a of the Illinois Public Aid Code shall not be subject to the provisions of this Act.

This Act does not apply to facilities granted waivers under Section 3-102.2 of the Nursing Home Care Act. However, if a demonstration project under that Act applies for a certificate of need to convert to a nursing facility, it shall meet the licensure and certificate of need requirements in effect as of the date of application.

This Act shall not apply to the closure of an entity or a portion of an entity licensed under the Nursing Home Care Act that elects to convert, in whole or in part, to an assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Establishment Act.

With the exception of those health care facilities specifically included in this Section, nothing in this Act shall be intended to include facilities operated as a part of the practice of a physician or other licensed health care professional, whether practicing in his

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individual capacity or within the legal structure of any partnership, medical or professional corporation, or unincorporated medical or professional group. Further, this Act shall not apply to physicians or other licensed health care professional's practices where such practices are carried out in a portion of a health care facility under contract with such health care facility by a physician or by other licensed health care professionals, whether practicing in his individual capacity or within the legal structure of any partnership, medical or professional corporation, or unincorporated medical or professional groups. This Act shall apply to construction or modification and to establishment by such health care facility of such contracted portion which is subject to facility licensing requirements, irrespective of the party responsible for such action or attendant financial obligation.

"Person" means any one or more natural persons, legal entities, governmental bodies other than federal, or any combination thereof.

"Consumer" means any person other than a person (a) whose major occupation currently involves or whose official capacity within the last 12 months has involved the providing, administering or financing of any type of health care facility, (b) who is engaged in health research or the teaching of health, (c) who has a material financial interest in any activity which involves the providing, administering or financing of any type of health care facility, or (d) who is or ever has been a member of the immediate family of the person defined by (a), (b), or (c).

"State Board" means the Health Facilities Planning Board.

"Construction or modification" means the establishment, erection, building, alteration, reconstruction, modernization, improvement, extension, discontinuation, change of ownership, of or by a health care facility, or the purchase or acquisition by or through a health care facility of equipment or service for diagnostic or therapeutic purposes or for facility administration or operation, or any capital expenditure made by or on behalf of a health care facility which exceeds the capital expenditure minimum; however, any capital expenditure made by or on behalf of a health care facility for the construction or modification of a facility licensed under the Assisted Living and Shared Housing Act shall be excluded from any obligations under this Act.

"Establish" means the construction of a health care facility or the replacement of an existing facility on another site.

"Major medical equipment" means medical equipment which is used for the provision of medical and other health services and which costs in excess of the capital expenditure minimum, except that such term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under Title XVIII of the Social Security Act to meet the requirements of paragraphs (10) and (11) of Section 1861(s) of such Act. In determining whether medical equipment has a value in excess of the capital expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of such equipment shall be included.

"Capital Expenditure" means an expenditure: (A) made by or on behalf of a health care facility (as such a facility is defined in this Act); and (B) which under generally accepted accounting principles is not properly chargeable as an expense of operation and

maintenance, or is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part; and which exceeds the capital expenditure minimum.

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For the purpose of this paragraph, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which an expenditure is made shall be included in determining if such expenditure exceeds the capital expenditures minimum. Donations of equipment or facilities to a health care facility which if acquired directly by such facility would be subject to review under this Act shall be considered capital expenditures, and a transfer of equipment or facilities for less than fair market value shall be considered a capital expenditure for purposes of this Act if a transfer of the equipment or facilities at fair market value would be subject to review.

"Capital expenditure minimum" means \$6,000,000, which shall be annually adjusted to reflect the increase in construction costs due to inflation, \$1,000,000 for major medical equipment and \$2,000,000 for all other capital expenditures; provided, however, that when a capital expenditure is for the construction or modification of a health and fitness center, "capital expenditure minimum" means the capital expenditure minimum for all other capital expenditures in effect on March 1, 2000, which shall be annually adjusted to reflect the increase in construction costs due to inflation, both of which shall be annually adjusted to reflect the increase in construction costs due to inflation.

"Non-clinical service area" means an area (i) for the benefit of the patients, visitors, staff, or employees of a health care facility and (ii) not directly related to the diagnosis, treatment, or rehabilitation of persons receiving services from the health care facility. "Non-clinical service areas" include, but are not limited to, chapels; gift shops; news stands; computer systems; tunnels, walkways, and elevators; telephone systems; projects to comply with life safety codes; educational facilities; student housing; patient, employee, staff, and visitor dining areas; administration and volunteer offices; modernization of structural components (such as roof replacement and masonry work); boiler repair or replacement; vehicle maintenance and storage facilities; parking facilities; mechanical systems for heating, ventilation, and air conditioning; loading docks; and repair or replacement of carpeting, tile, wall coverings, window coverings or treatments, or furniture. Solely for the purpose of this definition, "non-clinical service area" does not include health and fitness centers.

"Areawide" means a major area of the State delineated on a geographic, demographic, and functional basis for health planning and for health service and having within it one or more local areas for health planning and health service. The term "region", as contrasted with the term "subregion", and the word "area" may be used synonymously with the term "areawide".

"Local" means a subarea of a delineated major area that on a

geographic, demographic, and functional basis may be considered to be part of such major area. The term "subregion" may be used synonymously with the term "local".

"Areawide health planning organization" or "Comprehensive health planning organization" means the health systems agency designated by the Secretary, Department of Health and Human Services or any successor agency.

"Local health planning organization" means those local health planning organizations that are designated as such by the areawide health planning organization of the appropriate area.

"Physician" means a person licensed to practice in accordance with the Medical Practice Act of 1987, as amended.

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"Licensed health care professional" means a person licensed to practice a health profession under pertinent licensing statutes of the State of Illinois.

"Director" means the Director of the Illinois Department of Public Health.

"Agency" means the Illinois Department of Public Health.

"Comprehensive health planning" means health planning concerned with the total population and all health and associated problems that affect the well-being of people and that encompasses health services, health manpower, and health facilities; and the coordination among these and with those social, economic, and environmental factors that affect health.

"Alternative health care model" means a facility or program authorized under the Alternative Health Care Delivery Act.

"Out-of-state facility" means a person that is both (i) licensed as a hospital or as an ambulatory surgery center under the laws of another State or that qualifies as a hospital or an ambulatory surgery center under regulations adopted pursuant to the Social Security Act and (ii) not licensed under the Ambulatory Surgical Treatment Center Act, the Hospital Licensing Act, or the Nursing Home Care Act. Affiliates of out-of-state facilities shall be considered out-of-state facilities. Affiliates of Illinois licensed health care facilities 100% owned by an Illinois licensed health care facility, its parent, or Illinois physicians licensed to practice medicine in all its branches shall not be considered out-of-state facilities. Nothing in this definition shall be construed to include an office or any part of an office of a physician licensed to practice medicine in all its branches in Illinois that is not required to be licensed under the Ambulatory Surgical Treatment Center Act.

(Source: P.A. 90-14, eff. 7-1-97; 91-656, eff. 1-1-01.)

(20 ILCS 3960/4) (from Ch. 111 1/2, par. 1154)

Sec. 4. There is created the Health Facilities Planning Board, which shall perform such functions as hereinafter described in this Act.

The State Board shall consist of 15 voting members, including: 8 consumer members; one member representing the commercial health insurance industry in Illinois; one member representing ~~proprietary~~ hospitals in Illinois; one member who is actively engaged in the field of hospital management; one member who is a professional nurse

registered in Illinois; one member who is a physician in active private practice licensed in Illinois to practice medicine in all of its branches; one member who is actively engaged in the field of skilled nursing or intermediate care facility management; and one member who is actively engaged in the administration of an ambulatory surgical treatment center licensed under the Ambulatory Surgical Treatment Center Act.

The State Board shall be appointed by the Governor, with the advice and consent of the Senate. In making the appointments, the Governor shall give consideration to recommendations made by (1) the professional organizations concerned with hospital management for the hospital management appointment, (2) professional organizations concerned with long term care facility management for the long term care facility management appointment, (3) professional medical organizations for the physician appointment, (4) professional nursing organizations for the nurse appointment, and (5) professional organizations concerned with ambulatory surgical treatment centers for the ambulatory surgical treatment center appointment, and shall appoint as consumer members individuals familiar with community health needs but whose interest in the operation, construction or utilization of health care facilities are derived from factors other

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than those related to his profession, business, or economic gain, and who represent, so far as possible, different geographic areas of the State. Not more than 8 of the appointments shall be of the same political party.

The Secretary of Human Services, the Director of Public Aid, and the Director of Public Health, or their designated representatives, shall serve as ex-officio, non-voting members of the State Board.

Of those appointed by the Governor as voting members, each member shall hold office for a term of 3 years: provided, that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term and the term of office of each successor shall commence on July 1 of the year in which his predecessor's term expires. In making original appointments to the State Board, the Governor shall appoint 5 members for a term of one year, 5 for a term of 2 years, and 3 for a term of 3 years, and each of these terms of office shall commence on July 1, 1974. The initial term of office for the members appointed under this amendatory Act of 1996 shall begin on July 1, 1996 and shall last for 2 years, and each subsequent appointment shall be for a term of 3 years. Each member shall hold office until his successor is appointed and qualified.

State Board members, while serving on business of the State Board, shall receive actual and necessary travel and subsistence expenses while so serving away from their places of residence. In addition, while serving on business of the State Board, each member shall receive compensation of \$150 per day, except that such compensation shall not exceed \$7,500 in any one year for any member.

The State Board shall provide for its own organization and procedures, including the selection of a Chairman and such other officers as deemed necessary. The Director, with concurrence of the

State Board, shall name as full-time Executive Secretary of the State Board, a person qualified in health care facility planning and in administration. The Agency shall provide administrative and staff support for the State Board. The State Board shall advise the Director of its budgetary and staff needs and consult with the Director on annual budget preparation.

The State Board shall meet at least once each quarter, or as often as the Chairman of the State Board deems necessary, or upon the request of a majority of the members.

Eight members of the State Board shall constitute a quorum. The affirmative vote of 8 of the members of the State Board shall be necessary for any action requiring a vote to be taken by the State Board. A vacancy in the membership of the State Board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the State Board as provided by this Act.

(Source: P.A. 89-674, eff. 8-14-96; 90-14, eff. 7-1-97.)

(20 ILCS 3960/4.1 new)

Sec. 4.1. Ethics laws.

(a) All State Board meetings are subject to the Open Meetings Act.

(b) The State Board is subject to the State Gift Ban Act.

(20 ILCS 3960/4.2 new)

Sec. 4.2. Ex parte communications.

(a) Except in the disposition of matters that agencies are authorized by law to entertain or dispose of on an ex parte basis including, but not limited to rule making, the State Board, any State Board member, employee, or a hearing officer shall not engage in ex parte communication, after an application for a permit is received, in connection with the substance of any application for a permit with any person or party or the representative of any party.

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(b) A State Board member or employee may communicate with other members or employees and any State Board member or hearing officer may have the aid and advice of one or more personal assistants.

(c) An ex parte communication received by the State Board, any State Board member, employee, or a hearing officer shall be made a part of the record of the pending matter, including all written communications, all written responses to the communications, and a memorandum stating the substance of all oral communications and all responses made and the identity of each person from whom the ex parte communication was received.

(d) "Ex parte communication" means a communication between a person who is not a State Board member or employee and State Board member or employee that reflects on the substance of a pending State Board proceeding and that takes place outside the record of the proceeding. Communications regarding matters of procedure and practice, such as the format of pleading, number of copies required, manner of service, and status of proceedings, are not considered ex parte communications. Technical assistance with respect to an application, not intended to influence any decision on the application, may be provided by employees to the applicant. Any assistance shall be documented in writing by the applicant and

employees within 10 business days after the assistance is provided.

(e) For purposes of this Section, "employee" means a person the State Board or the Agency employs on a full-time, part-time, contract, or intern basis.

(f) The State Board, State Board member, or hearing examiner presiding over the proceeding, in the event of a violation of this Section, must take whatever action is necessary to ensure that the violation does not prejudice any party or adversely affect the fairness of the proceedings.

(g) Nothing in this Section shall be construed to prevent the State Board or any member of the State Board from consulting with the attorney for the State Board.

(20 ILCS 3960/5) (from Ch. 111 1/2, par. 1155)

Sec. 5. After effective dates set by the State Board, no person shall construct, modify or establish a health care facility or acquire major medical equipment without first obtaining a permit or exemption from the State Board. The State Board shall not delegate to the Executive Secretary of the State Board or any other person or entity the authority to grant permits or exemptions whenever the Executive Secretary or other person or entity would be required to exercise any discretion affecting the decision to grant a permit or exemption. The State Board shall set effective dates applicable to all or to each classification or category of health care facilities and applicable to all or each type of transaction for which a permit is required. Varying effective dates may be set, providing the date or dates so set shall apply uniformly statewide.

Notwithstanding any effective dates established by this Act or by the State Board, no person shall be required to obtain a permit for any purpose under this Act until the State health facilities plan referred to in paragraph (4) of Section 12 of this Act has been approved and adopted by the State Board subsequent to public hearings having been held thereon.

A permit or exemption shall be obtained prior to the acquisition of major medical equipment or to the construction or modification of a health care facility which:

(a) requires a total capital expenditure in excess of the capital expenditure minimum; or

(b) substantially changes the scope or changes the functional operation of the facility; or

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(c) changes the bed capacity of a health care facility by increasing the total number of beds or by distributing beds among various categories of service or by relocating beds from one physical facility or site to another by more than 10 beds or more than 10% of total bed capacity as defined by the State Board, whichever is less, over a 2 year period.

A permit shall be valid only for the defined construction or modifications, site, amount and person named in the application for such permit and shall not be transferable or assignable. A permit shall be valid until such time as the project has been completed, provided that (a) obligation of the project occurs within 12 months following issuance of the permit except for major construction

projects such obligation must occur within 18 months following issuance of the permit; and (b) the project commences and proceeds to completion with due diligence. Major construction projects, for the purposes of this Act, shall include but are not limited to: projects for the construction of new buildings; additions to existing facilities; modernization projects whose cost is in excess of \$1,000,000 or 10% of the facilities' operating revenue, whichever is less; and such other projects as the State Board shall define and prescribe pursuant to this Act. The State Board may extend the obligation period upon a showing of good cause by the permit holder. Permits for projects that have not been obligated within the prescribed obligation period shall expire on the last day of that period.

Persons who otherwise would be required to obtain a permit shall be exempt from such requirement if the State Board finds that with respect to establishing a new facility or construction of new buildings or additions or modifications to an existing facility, final plans and specifications for such work have prior to October 1, 1974, been submitted to and approved by the Department of Public Health in accordance with the requirements of applicable laws. Such exemptions shall be null and void after December 31, 1979 unless binding construction contracts were signed prior to December 1, 1979 and unless construction has commenced prior to December 31, 1979. Such exemptions shall be valid until such time as the project has been completed provided that the project proceeds to completion with due diligence.

The acquisition by any person of major medical equipment that will not be owned by or located in a health care facility and that will not be used to provide services to inpatients of a health care facility shall be exempt from review provided that a notice is filed in accordance with exemption requirements.

Notwithstanding any other provision of this Act, no permit or exemption is required for the construction or modification of a non-clinical service area of a health care facility.

(Source: P.A. 88-18.)

(20 ILCS 3960/5.2 new)

Sec. 5.2. After the effective date of this amendatory Act of the 91st General Assembly, no person shall establish, construct, or modify an institution, place, building, or room used for the performance of outpatient surgical procedures that is leased, owned, or operated by or on behalf of an out-of-state facility without first obtaining a permit from the State Board.

(20 ILCS 3960/5.3 new)

Sec. 5.3. In addition to the State Board's authority to require reports, the State Board shall require each health care facility to submit an annual report of all capital expenditures in excess of \$200,000 (which shall be annually adjusted to reflect the increase in construction costs due to inflation) made by the health care facility

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during the most recent year. This annual report shall consist of a brief description of the capital expenditure, the amount and method of financing the capital expenditure, the certificate of need project

number if the project was reviewed, and the total amount of capital expenditures obligated for the year.

(20 ILCS 3960/19.5 new)

Sec. 19.5. Audit. Upon the effective date of this amendatory Act of the 91st General Assembly, the Auditor General must commence an audit of the State Board to determine:

(1) whether the State Board can demonstrate that the certificate of need process is successful in controlling health care costs, allowing public access to necessary health services, and guaranteeing the availability of quality health care to the general public;

(2) whether the State Board is following its adopted rules and procedures;

(3) whether the State Board is consistent in awarding and denying certificates of need; and

(4) whether the State Board's annual reports reflect a cost savings to the State.

The Auditor General must report on the results of the audit to the General Assembly.

This Section is repealed when the Auditor General files his or her report with the General Assembly.

(20 ILCS 3960/19.6 new)

Sec. 19.6. Repeal. This Act is repealed on July 1, 2003.

Section 20. The Illinois State Auditing Act is amended by changing Section 3-1 as follows:

(30 ILCS 5/3-1) (from Ch. 15, par. 303-1)

Sec. 3-1. Jurisdiction of Auditor General. The Auditor General has jurisdiction over all State agencies to make post audits and investigations authorized by or under this Act or the Constitution.

The Auditor General has jurisdiction over local government agencies and private agencies only:

(a) to make such post audits authorized by or under this Act as are necessary and incidental to a post audit of a State agency or of a program administered by a State agency involving public funds of the State, but this jurisdiction does not include any authority to review local governmental agencies in the obligation, receipt, expenditure or use of public funds of the State that are granted without limitation or condition imposed by law, other than the general limitation that such funds be used for public purposes;

(b) to make investigations authorized by or under this Act or the Constitution; and

(c) to make audits of the records of local government agencies to verify actual costs of state-mandated programs when directed to do so by the Legislative Audit Commission at the request of the State Board of Appeals under the State Mandates Act.

In addition to the foregoing, the Auditor General may conduct an audit of the Metropolitan Pier and Exposition Authority, the Regional Transportation Authority, the Suburban Bus Division, the Commuter Rail Division and the Chicago Transit Authority and any other subsidized carrier when authorized by the Legislative Audit Commission. Such audit may be a financial, management or program audit, or any combination thereof.

The audit shall determine whether they are operating in accordance with all applicable laws and regulations. Subject to the limitations of this Act, the Legislative Audit Commission may by

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resolution specify additional determinations to be included in the scope of the audit.

The Auditor General may also conduct an audit, when authorized by the Legislative Audit Commission, of any hospital which receives 10% or more of its gross revenues from payments from the State of Illinois, Department of Public Aid, Medical Assistance Program.

The Auditor General is authorized to conduct financial and compliance audits of the Illinois Distance Learning Foundation and the Illinois Conservation Foundation.

As soon as practical after the effective date of this amendatory Act of 1995, the Auditor General shall conduct a compliance and management audit of the City of Chicago and any other entity with regard to the operation of Chicago O'Hare International Airport, Chicago Midway Airport and Merrill C. Meigs Field. The audit shall include, but not be limited to, an examination of revenues, expenses, and transfers of funds; purchasing and contracting policies and practices; staffing levels; and hiring practices and procedures. When completed, the audit required by this paragraph shall be distributed in accordance with Section 3-14.

The Auditor General shall conduct a financial and compliance and program audit of distributions from the Municipal Economic Development Fund during the immediately preceding calendar year pursuant to Section 8-403.1 of the Public Utilities Act at no cost to the city, village, or incorporated town that received the distributions.

The Auditor General must conduct an audit of the Health Facilities Planning Board pursuant to Section 19.5 of the Illinois Health Facilities Planning Act.

(Source: P.A. 89-386, eff. 8-18-95; 90-813, eff. 1-29-99.)

Section 95. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

Section 99. Effective date. This Act takes effect upon becoming law."

Under the rules, the foregoing **House Bill No. 807**, with Senate Amendments numbered 1, 2 and 9, was referred to the Secretary's Desk.

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of bills of the following titles, to-wit:

SENATE BILL NO 1359

A bill for AN ACT to re-enact the amendatory changes to the WIC Vendor Management Act made by Public Act 88-680.

SENATE BILL NO 1361

A bill for AN ACT to re-enact various provisions of Public Act 88-680 amending the Illinois Vehicle Code.

SENATE BILL NO 1362

A bill for AN ACT to re-enact provisions of the Rights of Crime Victims and Witnesses Act contained in Article 35 of Public Act 88-680.

SENATE BILL NO 1363

A bill for AN ACT to re-enact provisions of the Firearm Owners Identification Card Act contained in Article 50 of Public Act 88-680.

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SENATE BILL NO 1364

A bill for AN ACT to re-enact provisions of the Unified Code of Corrections contained in Articles 35 and 50 of Public Act 88-680.

SENATE BILL NO 1365

A bill for AN ACT to re-enact certain criminal provisions of Public Act 88-680.

Passed the House, April 10, 2000.

ANTHONY D. ROSSI, Clerk of the House

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to the following joint resolution, to-wit:

HOUSE JOINT RESOLUTION NO. 40
Senate Amendment No. 1

Action taken by the House, April 10, 2000.

ANTHONY D. ROSSI, Clerk of the House

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 477

A bill for AN ACT to amend the Revised Uniform Limited Partnership Act by changing Sections 402, 602, and 603.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 477.

Concurred in by the House, April 10, 2000.

ANTHONY D. ROSSI, Clerk of the House

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the

House of Representatives has concurred with the Senate in the adoption of their amendments to a bill of the following title, to-wit:

HOUSE BILL 739

A bill for AN ACT to amend the Criminal Code of 1961 by changing Section 24-1.5.

Which amendments are as follows:

Senate Amendment No. 2 to HOUSE BILL NO. 739.

Senate Amendment No. 3 to HOUSE BILL NO. 739.

Concurred in by the House, April 10, 2000.

ANTHONY D. ROSSI, Clerk of the House

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the

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House of Representatives has concurred with the Senate in the adoption of their amendments to a bill of the following title, to-wit:

HOUSE BILL 2574

A bill for AN ACT to amend the Illinois Controlled Substances Act by changing Sections 309, 312, and 406, by adding Sections 316, 317, 318, 319, and 320 and repealing Sections 308, 310, and 311.

Which amendments are as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 2574.

Senate Amendment No. 3 to HOUSE BILL NO. 2574.

Senate Amendment No. 4 to HOUSE BILL NO. 2574.

Concurred in by the House, April 10, 2000.

ANTHONY D. ROSSI, Clerk of the House

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 3073

A bill for AN ACT in relation to children.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 3073.

Concurred in by the House, April 10, 2000.

ANTHONY D. ROSSI, Clerk of the House

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 3132

A bill for AN ACT concerning county officers.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 3132.

Concurred in by the House, April 10, 2000.

ANTHONY D. ROSSI, Clerk of the House

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 3188

A bill for AN ACT to amend the Township Code by changing Sections 115-20 and 115-105.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 3188.

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Concurred in by the House, April 10, 2000.

ANTHONY D. ROSSI, Clerk of the House

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 3256

A bill for AN ACT to create the Momenca Dam Transfer Act.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 3256.

Concurred in by the House, April 10, 2000.

ANTHONY D. ROSSI, Clerk of the House

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 3260

A bill for AN ACT to amend the Unemployment Insurance Act by adding Section 206.1.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 3260.

Concurred in by the House, April 10, 2000.

ANTHONY D. ROSSI, Clerk of the House

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendments to a bill of the following title, to-wit:

HOUSE BILL 3312

A bill for AN ACT to amend the Illinois Vehicle Code by adding Section 3-645.

Which amendments are as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 3312.

Senate Amendment No. 2 to HOUSE BILL NO. 3312.

Concurred in by the House, April 10, 2000.

ANTHONY D. ROSSI, Clerk of the House

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 3435

A bill for AN ACT concerning the levy of taxes by school boards.

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Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 3435.

Concurred in by the House, April 10, 2000.

ANTHONY D. ROSSI, Clerk of the House

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 3478

A bill for AN ACT in relation to motor fuel.

Which amendment is as follows:
Senate Amendment No. 1 to HOUSE BILL NO. 3478.

Concurred in by the House, April 10, 2000.
ANTHONY D. ROSSI, Clerk of the House

A message from the House by
Mr. Rossi, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 4021
A bill for AN ACT creating the Great START program.

Which amendment is as follows:
Senate Amendment No. 1 to HOUSE BILL NO. 4021.

Concurred in by the House, April 10, 2000.
ANTHONY D. ROSSI, Clerk of the House

A message from the House by
Mr. Rossi, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 4043
A bill for AN ACT to amend the Liquor Control Act of 1934 by changing Section 7-5.

Which amendment is as follows:
Senate Amendment No. 1 to HOUSE BILL NO. 4043.

Concurred in by the House, April 10, 2000.
ANTHONY D. ROSSI, Clerk of the House

A message from the House by
Mr. Rossi, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 4097
A bill for AN ACT to amend the Crime Victims Compensation Act by

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changing Section 2 and adding Section 2.5.

Which amendment is as follows:
Senate Amendment No. 1 to HOUSE BILL NO. 4097.

Concurred in by the House, April 10, 2000.

ANTHONY D. ROSSI, Clerk of the House

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 4433

A bill for AN ACT to amend the Comprehensive Health Insurance Plan Act by changing Section 8.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 4433.

Concurred in by the House, April 10, 2000.

ANTHONY D. ROSSI, Clerk of the House

JOINT ACTION MOTIONS FILED

The following Joint Action Motions to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Rules:

Motion to Concur in House Amendment 2 to Senate Bill 730
Motion to Concur in H.A.s 1, 2 & 9 to Senate Bill 807
Motion to Concur in House Amendment 1 to Senate Bill 1284
Motion to Concur in House Amendment 1 to Senate Bill 1426
Motion to Concur in House Amendment 1 to Senate Bill 1447
Motion to Concur in House Amendments 1 & 2 to Senate Bill 1451
Motion to Concur in House Amendment 1 to Senate Bill 1453
Motion to Concur in House Amendments 1 & 2 to Senate Bill 1655
Motion to Concur in House Amendment 1 to Senate Bill 1690

At the hour of 9:55 o'clock a.m., Senator Donahue presiding.

REPORT FROM RULES COMMITTEE

Senator Weaver, Chairperson of the Committee on Rules, during its April 11, 2000 meeting, reported the following Joint Action Motions have been assigned to the indicated Standing Committees of the Senate:

Education: Motion to concur with House Amendment 1 to Senate Bill No. 1447.

Executive: Motions to concur with House Amendments 1, 2 and 9 to Senate Bill No. 807; House Amendment 1 and 2 to Senate Bill 1332.

Judiciary: Motions to concur with House Amendment 2 to Senate Bill No. 730; House Amendment No. 1 to Senate Bill No. 1426; House Amendments 1 & 2 to Senate Bill No. 1655; House Amendment 1 to Senate Bill No. 1690.

Revenue: Motions to concur with House Amendments 1 and 2 to

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Senate Bill No. 1451; Motion to concur with House Amendment 1 to Senate Bill No. 1453.

State Government Operations: Motion to concur with House Amendment No. 1 to Senate Bill 1284.

COMMITTEE MEETING ANNOUNCEMENTS

Senator Weaver, announced that the Public Health and Welfare Committee will meet today in Room 400, Capitol Building, at 10:30 o'clock a.m.

Senator Weaver, announced that the Judiciary Committee will meet today in Room 400, Capitol Building, at 11:00 o'clock a.m.

Senator Weaver, announced that the Education Committee will meet today in Room 212, Capitol Building, at 11:30 o'clock a.m.

Senator Weaver, announced that the Environment and Energy Committee will meet today in Room 400, Capitol Building, at 11:30 o'clock a.m.

Senator Weaver, announced that the Executive Committee will meet today in Room 212, Capitol Building, at 12:00 noon.

Senator Weaver, announced that the Revenue Committee will meet today in Room 400, Capitol Building, at 12:00 noon.

Senator Weaver, announced that the State Government Operations Committee will meet today in the Senate Chambers, at 12:00 noon.

Senator Weaver, announced that the Licensed Activities Committee will meet today in Room A-1, Stratton Building, at 12:30 o'clock p.m.

Senator Weaver asked and obtained unanimous consent to recess for the purpose of a Republican caucus.

Senator Smith asked and obtained unanimous consent to recess for the purpose of a Democrat caucus.

At the hour of 9:41 o'clock a.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

AFTER RECESS

At the hour of 2:28 o'clock p.m., the Senate resumed consideration of business.

Senator Dudycz, presiding.

REPORTS FROM STANDING COMMITTEES

Senator Cronin, Chairperson of the Committee on Education, to which was referred the **Motion to concur with House Amendment No. 1 to**

Senate Bill No. 1447, reported the same back with the recommendation that the motion be adopted.

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Mahar, Chairperson of the Committee on Environment and

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Energy, to which was referred the **Motion to concur with House Amendments numbered 1 and 3 to Senate Bill No. 1541**, reported the same back with the recommendation that the motion be approved for consideration.

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Klemm, Chairperson of the Committee on Executive, to which was referred the **Motion to concur with House Amendments numbered 1, 2 and 9 to Senate Bill No. 807**, reported the same back with the recommendation that the motion be adopted.

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Klemm, Chairperson of the Committee on Executive, to which was referred the **Motion to concur with House Amendments numbered 1 and 2 to Senate Bill No. 1332**, reported the same back with the recommendation that the motion be adopted.

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Klemm, Chairperson of the Committee on Executive, to which was referred the **Motion to concur with House Amendment No. 1 to Senate Bill No. 1682**, reported the same back with the recommendation that the motion be adopted.

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Klemm, Chairperson of the Committee on Executive, to which was referred the **Motion to concur with House Amendment No. 2 to Senate Bill No. 1871**, reported the same back with the recommendation that the motion be adopted.

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Hawkinson, Chairperson of the Committee on Judiciary, to which was referred the **Motion to concur with House Amendment No. 2 to Senate Bill No. 730**, reported the same back with the recommendation that the motion be approved for consideration.

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Hawkinson, Chairperson of the Committee on Judiciary, to which was referred the **Motion to concur with House Amendment No. 1 to Senate Bill No. 1268**, reported the same back with the recommendation

that the motion be approved for consideration.

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Hawkinson, Chairperson of the Committee on Judiciary, to which was referred the **Motion to concur with House Amendment No. 1 to Senate Bill No. 1426**, reported the same back with the recommendation that the motion be approved for consideration.

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Hawkinson, Chairperson of the Committee on Judiciary, to which was referred the **Motion to concur with House Amendment No. 1 to Senate Bill No. 1567**, reported the same back with the recommendation that the motion be approved for consideration.

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Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Hawkinson, Chairperson of the Committee on Judiciary, to which was referred the **Motion to concur with House Amendments numbered 1 and 2 to Senate Bill No. 1655**, reported the same back with the recommendation that the motion be approved for consideration.

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Hawkinson, Chairperson of the Committee on Judiciary, to which was referred the **Motion to concur with House Amendment No. 1 to Senate Bill No. 1690**, reported the same back with the recommendation that the motion be approved for consideration.

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Burzynski, Chairperson of the Committee on Licensed Activities, to which was referred the **Motion to concur with House Amendments numbered 1, 6 and 8 to Senate Bill No. 452**, reported the same back with the recommendation that the motion be adopted.

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Burzynski, Chairperson of the Committee on Licensed Activities, to which was referred the **Motion to concur with House Amendments numbered 1 and 2 to Senate Bill No. 1339**, reported the same back with the recommendation that the motion be adopted.

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Burzynski, Chairperson of the Committee on Licensed Activities, to which was referred the **Motion to concur with House Amendment No. 1 to Senate Bill No. 1404**, reported the same back with the recommendation that the motion be adopted.

Under the rules, the foregoing motion is eligible for

consideration by the Senate.

Senator Burzynski, Chairperson of the Committee on Licensed Activities, to which was referred the **Motion to concur with House Amendment No. 1 to Senate Bill No. 1704**, reported the same back with the recommendation that the motion be adopted.

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Syverson, Chairperson of the Committee on Public Health and Welfare, to which was referred the **Motion to concur with House Amendments numbered 1 and 2 to Senate Bill No. 563**, reported the same back with the recommendation that the motion be adopted.

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Syverson, Chairperson of the Committee on Public Health and Welfare, to which was referred the **Motion to concur with House Amendment No. 1 to Senate Bill No. 1508**, reported the same back with the recommendation that the motion be adopted.

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Peterson, Chairperson of the Committee on Revenue, to

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which was referred the **Motion to concur with House Amendment No. 2 to Senate Bill No. 1249**, reported the same back with the recommendation that the motion be approved for consideration.

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Peterson, Chairperson of the Committee on Revenue, to which was referred the **Motion to concur with House Amendment No. 1 to Senate Bill No. 1296**, reported the same back with the recommendation that the motion be approved for consideration.

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Peterson, Chairperson of the Committee on Revenue, to which was referred the **Motion to concur with House Amendment No. 1 to Senate Bill No. 1307**, reported the same back with the recommendation that the motion be approved for consideration.

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Peterson, Chairperson of the Committee on Revenue, to which was referred the **Motion to concur with House Amendments numbered 1 and 2 to Senate Bill No. 1451**, reported the same back with the recommendation that the motion be approved for consideration.

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Peterson, Chairperson of the Committee on Revenue, to which was referred the **Motion to concur with House Amendment No. 1 to Senate Bill No. 1453**, reported the same back with the recommendation that the motion be approved for consideration.

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator T. Walsh, Chairperson of the Committee on State Government Operations, to which was referred the **Motion to concur with House Amendment No. 1 to Senate Bill No. 1284**, reported the same back with the recommendation that the motion be approved for consideration.

Under the rules, the foregoing motion is eligible for consideration by the Senate.

PRESENTATION OF RESOLUTION

Senator Klemm offered the following Senate Joint Resolution, which was referred to the Committee on Rules:

SENATE JOINT RESOLUTION NO. 71

WHEREAS, The rapid development of energy producing facilities, including peaker and cogeneration facilities, in highly developed areas has led to concerns regarding the environmental impact of those facilities, including but not limited to the impact on the State's groundwater and surface water resources and on surrounding communities and residences; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-FIRST GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that by July 1, 2000, a special Environmental Resources Advisory Committee shall be appointed to examine the environmental impact of new and expanded energy producing facilities and the

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associated developments necessitating their growth, as deemed necessary by the Advisory Committee; environmental impact analysis in this regard shall focus upon, but may not be limited to, the State's groundwater and surface water; the Advisory Committee shall provide a legislative proposal to the Governor by December 15, 2000; and be it further

RESOLVED, That the Advisory Committee shall consist of one member appointed by the Governor who shall serve as Chairman, one Senator appointed by the President of the Senate, one Senator appointed by the Minority Leader of the Senate, one Representative appointed by the Speaker of the House of Representatives, one Representative appointed by the Minority Leader of the House of Representatives, the Director of the Environmental Protection Agency or his or her designee, the Director of Natural Resources or his or her designee, the Director of Agriculture or his or her designee, the Director of Commerce and Community Affairs or his or her designee, the Director of Nuclear Safety or his or her designee, the Chairman of the Illinois Commerce Commission or his or her designee, the Chairman of

the Pollution Control Board or his or her designee, and representatives from each of the following groups to be appointed by the Governor: the energy producing industry, local government, the business community, the home building industry, the agricultural community, the environmental community, the water supply community, the water authorities, and the soil and water conservation districts; members of the Advisory Committee may organize themselves as they deem necessary; members of the Advisory Committee shall meet periodically and serve without compensation; and be it further

RESOLVED, That suitable copies of this resolution be delivered to the Governor, the Director of the Environmental Protection Agency, the Director of Natural Resources, the Director of Agriculture, the Director of Commerce and Community Affairs, the Director of Nuclear Safety, the Chairman of the Illinois Commerce Commission, and the Chairman of the Pollution Control Board.

HOUSE BILL RECALLED

On motion of Senator Philip, **House Bill No. 2855** was recalled from the order of third reading to the order of second reading.

Senator Philip offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 2855 by replacing the title with the following:

"AN ACT in relation to corrections."; and
by replacing everything after the enacting clause with the following:
"Section 5. The Illinois Public Labor Relations Act is amended by changing Section 15 as follows:

(5 ILCS 315/15) (from Ch. 48, par. 1615)

Sec. 15. Act Takes Precedence.

(a) In case of any conflict between the provisions of this Act and any other law, executive order or administrative regulation relating to wages, hours and conditions of employment and employment relations, the provisions of this Act or any collective bargaining agreement negotiated thereunder shall prevail and control. Nothing in this Act shall be construed to replace or diminish the rights of employees established by Sections 28 and 28a of the Metropolitan Transit Authority Act, Sections 2.15 through 2.19 of the Regional Transportation Authority Act.

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(b) Except as provided in subsection (a) above, any collective bargaining contract between a public employer and a labor organization executed pursuant to this Act shall supersede any contrary statutes, charters, ordinances, rules or regulations relating to wages, hours and conditions of employment and employment relations adopted by the public employer or its agents. Any collective bargaining agreement entered into prior to the effective date of this Act shall remain in full force during its duration.

(b-5) Notwithstanding this or any other law, executive order,

administrative regulation, or collective bargaining agreement to the contrary, in the case of a conflict between this Section and Section 3-7-2.5 of the Unified Code of Corrections, the provisions of that Section shall prevail.

(c) It is the public policy of this State, pursuant to paragraphs (h) and (i) of Section 6 of Article VII of the Illinois Constitution, that the provisions of this Act are the exclusive exercise by the State of powers and functions which might otherwise be exercised by home rule units. Such powers and functions may not be exercised concurrently, either directly or indirectly, by any unit of local government, including any home rule unit, except as otherwise authorized by this Act.

(Source: P.A. 83-1012.)

Section 10. The Unified Code of Corrections is amended by adding Section 3-7-2.5 as follows:

(730 ILCS 5/3-7-2.5 new)

Sec. 3-7-2.5. Zero tolerance drug policy.

(a) No less than 20% of all employees and administrative officers of the Department shall be randomly tested for the presence of drugs once per year. "Employee" includes a Department employee who meets one or more of the following criteria:

(1) the employee is responsible for the care, custody, or supervision of a committed person; or

(2) the employee works within a correctional institution as defined in subsection (d) of Section 3-1-2; or

(3) the employee has regular contact with committed persons as defined in subsection (c) of Section 3-1-2; or

(4) the employee has the opportunity to smuggle drugs to committed persons; or

(5) the employee is authorized to carry a firearm; or

(6) the employee is eligible for the security retirement formula.

(b) Notwithstanding a contractual provision or Section 15 of the Illinois Public Labor Relations Act to the contrary, if an employee or officer refuses to take a drug test, or if a drug test administered to an employee or officer shows a positive result, then the employee or officer shall be terminated from employment. Such termination shall be in accordance with established Departmental procedures.

(c) Notwithstanding a contractual provision or Section 15 of the Illinois Public Labor Relations Act to the contrary, an employee or officer discharged from the Department for failure to take a drug test or for a positive test result may not be rehired.

(d) This Section shall not be construed to limit drug testing if there is reasonable suspicion that an employee or officer is under the influence of or using alcohol or an unauthorized drug. This Section may not be construed to limit post-accident testing or to limit the testing of an applicant for employment.

(e) Every person, including a correctional officer or administrative officer, entering a Department facility shall be subject to a search for drugs and contraband, either by a person, by

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a machine, or by a drug dog.

(f) A person observed committing a crime may be referred to the State's Attorney's Office for prosecution. Every violation shall be reported to the Director or his or her designee.

(g) A notice shall be posted at each Department facility that anyone entering the facility may be subject to a body cavity search.

(h) Any person who refuses to be searched shall not be allowed to enter the Department facility.

Section 99. Effective date. This Act takes effect upon becoming law.".

The motion prevailed and the amendment was adopted and ordered printed.

And **House Bill No. 2855**, as amended, was returned to the order of third reading.

READING A BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Philip, **House Bill No. 2855** having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote: Yeas 45; Nays 3; Present 10.

The following voted in the affirmative:

Bomke
Bowles
Burzynski
Cronin
Dillard
Donahue
Dudycz
Geo-Karis
Hawkinson
Jacobs
Jones, W.
Karpiel
Klemm
Lauzen
Link
Luechtefeld
Madigan, L.
Madigan, R.
Mahar
Maitland
Mitchell
Munoz
Myers
Noland
Obama
O'Daniel
O'Malley
Parker
Peterson

Petka
Radogno
Rauschenberger

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Roskam
Shadid
Sieben
Silverstein
Sullivan
Syverson
Viverito
Walsh, L.
Walsh, T.
Watson
Weaver
Welch
Mr. President

The following voted in the negative:

Cullerton
Demuzio
Ronen

The following voted present:

Clayborne
del Valle
Halvorson
Hendon
Jones, E.
Lightford
Molaro
Shaw
Smith
Trotter

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

Senator Ronen asked and obtained unanimous consent for the Journal to reflect that she inadvertently voted "No" instead of "Yes" on the passage of **House Bill No. 2855**.

JOINT ACTION MOTIONS FILED

The following Joint Action Motions to the Senate Bills listed

below have been filed with the Secretary and referred to the Committee on Rules:

Motion to Concur in House Amendment 1 to Senate Bill 747
Motion to concur in H.A.s 1, 2 & 3 to Senate Bill 1425

At the hour of 2:58 o'clock p.m., on motion of Senator Hawkinson, the Senate stood adjourned until Wednesday, April 12, 2000 at 11:00 o'clock a.m.

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